

*REMARKS*

Applicants have carefully reviewed and considered the final Office Action dated April 19, 2005 and the references cited therein. Claims 3-6 have been indicated as allowed, whereas claims 1 and 2 are rejected. In response, applicants have made clarifying amendments to claims 1 and 2.

For example, claim 1 has been amended to incorporate language in the preamble of the claim into the body. In the final Office action, the language of the preamble is interpreted as “merely intent, and not as an explicit limitation.”

Claim 2 has been amended to better focus the claim on the features distinguishing the claimed invention from conventional bodies designed in keeping with standardized load profile information. In other words, applicants’ invention in claim 2 is aimed at a customized design for heaping attributes of material at a specific location. The body designs of the ‘914 patent and the Caterpillar N149F document assume a one-size-fits-all approach, which is contrary to the claim.

Finally, new claims 7-10 have been added, depending from independent claim 2.

**CLAIM 2**

Independent claim 2 stands rejected under 35 U.S.C. § 103 as unpatentable over U.S. Patent 5,887,914 (“the Hagenbuch ‘914 patent”) in view of Caterpillar Release N149F (“the Caterpillar reference”). The invention recited in claim 2 is neither taught nor suggested by the Hagenbuch ‘914 patent or the Caterpillar Release. Claim 2 recites a body for a vehicle that is made by creating a three-dimensional volumetric model of a load to be carried in the body using data collected from an “**anticipated point of use.**” Moreover, the three dimensional volumetric model of the claim includes corner voids. As part of the adjustment of the design parameters to produce a finished body, a rear edge of the floor of the body is curved to correspond to the rear corner voids in the three-dimensional volumetric model. None of these features is found in or suggested by the cited references.

A clean copy of claim 2 is reproduced below.

2. (Currently Amended) A body of a vehicle for hauling material, the body made by the following process:

- (a) determining a desired location for a load center of gravity on a chassis of the vehicle;
- (b) determining a desired volumetric capacity for the body;
- (c) developing a three dimensional volumetric model of a load to be carried in the body on the chassis that includes corner voids, using data collected from an *anticipated point of use*;
- (d) adjusting a set of design parameters of the body until the load center of gravity for the three-dimensional volumetric model of the load is located proximate the desired location for the load center of gravity on the chassis and the volume of the three dimensional volumetric model is substantially similar to the desired volumetric capacity, including curving a rear edge of the floor to correspond with the corner voids in the three-dimensional volumetric model; and
- (e) producing the body in accordance with the set of design parameters.

#### CLAIM 1

Claim 1 stands rejected under 35 U.S.C. § 112 as indefinite and under 35 U.S.C. § 103 as unpatentable over the Hagenbuch '914 patent and U.S. Patent 5,815,960 ("the Soczka patent"). For the Section 112 rejection, the Office action points to the phrases "approximately ¼ or more" and "sidewalls are spaced relatively wider" as indefinite. The Office action also pointed to the terms "substantially minimizes the clearance...minimize splattering," "minimizing the height," "substantially off the center of the body" and "substantially greater height" in the body of the claim as being indefinite. Applicants have amended claim 1 to remove some of the offending language and otherwise amended the claim to provide a clearer context for some of the phrases such as "minimizing the height." Favorable reconsideration of this Section 112 rejection is respectfully requested.

With respect to the features recited in the preamble of claim 1, applicants have integrated these features into the body of the claim to ensure they are given weight in evaluating the claim's patentability. A clean copy of the claim as amended is reproduced below.

1. (Currently Amended) A method of loading material into a dump body of a truck whose sidewalls are spaced relatively wider than conventional dump bodies of similar volumetric capacity, the method comprising:

filling the loading bucket with an amount of earthen material, where the loading bucket has a volumetric capacity that is *approximately 1/4 or more than a volumetric capacity of the dump body*;

lowering the bucket into the body so that the bucket is approximately centered over a floor of the body; and

freeing a swinging door so as to open the bucket and allow the material held in the bucket to drop into the dump body, whereby the door swings open and clears both the sidewalls and the floor of the dump body while minimizing the height from which the material is dropped from the bucket.

Turning to the rejection of claim 1 based on the prior art, the cited references do not teach or suggest the claimed invention. The Hagenbuch '914 does not disclose any method for loading material into a dump body let alone a method that can be used when the volumetric capacity of the bucket is approximately  $\frac{1}{4}$  or more of the volumetric capacity of the dump body.

As noted in the application, when loading conventional dump bodies with large capacity buckets, the clearance between the dump body floor and the swinging gate in the freed position cannot be minimized because the bucket operator must ensure that the bucket does not come into contact with the sidewalls of the dump body. As a result, the load must be dropped from the bucket at a relatively large distance above the floor of the dump body creating a substantial impact force when the dropping material contacts the floor of the dump body. These issues are addressed by the invention recited in claim 1.

The Soczka patent discloses a retarding mechanism for a gate of a loading shovel. However, like the Hagenbuch '914 patent, it contains no teaching or suggestion as to how material can be loaded into a dump body when the loading shovel is large compared to the size of the body. Claim 1 quantifies this relationship by calling for the shovel to have a volumetric capacity of  $\frac{1}{4}$  or more of the volumetric capacity of the dump body.

Soczka does not contain any appreciation of the issues involved when using a large capacity bucket such as one having a volumetric capacity of  $\frac{1}{4}$  or more of the volumetric capacity of the dump body. FIG. 1 of Soczka patent cited by the Office action is merely a background drawing showing usage of the Soczka dipper and can in no way be considered as

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teaching the invention of claim 1. Thus, claim 1 is patentable over the combined teachings of the Hagenbuch '914 and Soczka patents.

**NEW CLAIMS 7-10**

New claims 7-10 have been added. They depend from independent claim 2 and provide to varying scope of protection for the claim recited in claim 2. Without this amendment no claims depend from claim 2.

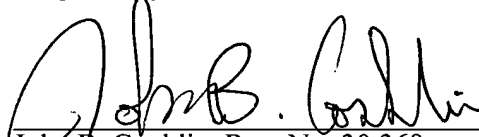
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*CONCLUSION*

The application is considered in good and proper form for allowance, and the examiner is respectfully requested to enter this amendment so that the application can be passed to issue. Although claims 1 and 2 have been amended herein, the features argued with respect to the prior art applied in the final Office action are the same claimed features found in the previous versions of the claims. In this regard, no new features are added to the claims requiring further consideration or searching.

If, in the opinion of the examiner, a telephone conference would expedite the prosecution of the subject application, the examiner is invited to call the undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John B. Conklin", is written over a horizontal line.

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